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Date: October 22, 2003 Planning Commission Meeting

Item No.

MILPITAS PLANNING COMMISSION AGENDA REPORT

Category: Public Hearing

Report Prepared by: Kim Duncan

Public Hearing: Yes: X No:

Notices Mailed On: 10-10-03 Published On: 10-9-03 Posted On: 10-10-03

TITLE: **USE PERMIT NO. P-UP2003-33**

Proposal: A request to operate a 30-station computer learning center/arcade without providing three (3) required parking spaces in Jacklin Square.

Location: 1319 Jacklin Drive

APN: 029-05-040

RECOMMENDATION: **Approval with Conditions**

Applicant: Hermilo Isla and Edgar Rondez, 1794 Bluespruce Court, Milpitas, CA 95035.

Property Owner: 183 Townsend Corporation, P.O. Box 280184, San Francisco, CA 94128

Previous Action(s): "S" Zone Approval

General Plan Designation: Retail Sub-Center

Present Zoning: Neighborhood Commercial with an "S" Zone Overlay (C1-S)

Existing Land Use: Multi-tenant shopping center

Agenda Sent To: Applicant & Owner (same as above)

Attachments: Plans, letter of description from applicant dated August 4, 2003

PJ#: 2346

BACKGROUND

This item was continued from the Planning Commission meeting on October 8, 2003 because the item was advertised before staff determined the proposal required more parking than what is allocated to the existing tenant space. The item was re-advertised on October 9, 2003 reflecting the parking adjustment.

On August 15, 1985, the Planning Commission approved an "S" Zone application for a 17,800 square foot multi-tenant retail commercial building. Subsequent "S" Zone amendment approvals include exterior building architectural modifications, building and freestanding signs and amendments to the sign program. Since the original "S" Zone approval, the Planning Commission has granted use permit

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approvals for video stores, restaurants, sandwich shop, Pizza Hut take out, pet store and a grocery store.

Site Description

The subject site is located at the Jacklin Square shopping center on the northeastern corner of Jacklin Road and North Park Victoria Drive. The 1.51 acre site is bound by Evans Road to the east, Jacklin Road to the south, North Park Victoria Drive to the west, and a single family residential zoned district to the north.

The Jacklin Square shopping center is a multi-tenant building consisting of commercial services such as a coffee shop, hair salon, realty, dry cleaner and other similar neighborhood commercial retail services. The shopping center services the neighboring residential zoned districts located to the north, east and south of the center. Additional neighborhood commercial uses are located across North Park Victoria Drive to the west.

THE APPLICATION

This application is submitted pursuant to Section 57 (Conditional Use Permit), Section 57.02-18, and Section 18.03-1 of the Zoning Ordinance. Section 18.03-1 allows arcades with mechanical or electronic games or games of skill or science as a conditional use in the Neighborhood Commercial (C1) district. The City's Zoning Ordinance defines an arcade as "any business establishment or premises containing seven (7) or more mechanical or electronic game type machines." Although the proposed business would meet this definition, the applicant is not proposing an arcade in the traditional sense. The Planning Commission has approved other internet arcades through the use permit process utilizing this definition.

The applicant is requesting approval to operate a 1,500 square foot, thirty (30) station, computer learning center and gaming store without providing three (3) required parking spaces. The computer learning component will offer computer training sessions for applications such as Microsoft XP and Office, internet usage, computer security and reading comprehension. In addition, there will be simulation games and a fantasy arcade component to the business. The proposed hours of operation will be from 8:00AM to 12:00 midnight Monday through Saturday and 10:00AM to 12:00 midnight on Sunday. In addition, the applicant is proposing retail sales of computer software on a limited basis.

ISSUES

Parking

The proposed business operation is a relatively new land use, for which the City's ordinance does not address parking requirements. The City's parking ordinance allows the Planning Commission to determine the parking requirements for land uses that are not specifically addressed in the ordinance (Section 53.06-Uses Not Specified). It also allows the Commission to draw upon the experience of other local cities in reaching a determination (Milpitas Municipal Code XI-10-53.06).

The Planning Commission approved a similar type of use at Crescent Square shopping center and, at that time, made a determination that parking for this type of use should be based on the same requirements as a restaurant (one (1) stall per three (3) seats). Subsequently, similar uses have been approved at the Great Mall and Calaveras Square shopping centers.

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Based on the Planning Commission previous determination, parking demand for the proposed use of 30 computer stations is 10 parking stalls. Currently, the tenant has an allocation of 7 parking spaces based on the commercial retail parking ratio of 1 space per 200 square feet of tenant space, therefore, the proposal will require three (3) additional parking spaces.

The applicant submitted a parking study to the City transportation planning division for analysis (see attachments). According to the study, it was determined the average parking lot occupancy is approximately 47% during the peak hours of 12:00 p.m. to 7:00 p.m. The transportation planning division determined that, with parking demand at less than 50% occupancy during peak hours, there is adequate parking to accommodate Mission Control's requirement for 3 additional parking spaces.

Staff noted on a recent site visit the parking space striping at the shopping center is faded and difficult to identify. As a condition of approval, **staff recommends** the property owner submit a parking re-striping plan to meet parking requirements. Staff notes that this re-striping must be accomplished prior to issuance of the Certificate of Occupancy.

Conformance with the General Plan

The proposed project complies with the City's General Plan in terms of land use. The proposed use does not conflict with any General Plan Principles and Policies, and is consistent with Implementing Policy 2.a-I-3, which encourages economic pursuits, which will strengthen and promote development through stability and balance. It is also consistent with Policy 2.a-I-6, which endeavors to maintain a balanced economic base that can resist downturns in any one economic sector.

The proposed computer learning center and arcade will provide a retail high-tech type of use that serves the needs of neighborhood residents. Internet use is as commonplace as the television and phone; there is a need to provide internet access, as it can be used not only for entertainment but also as an educational tool.

Conformance with the Zoning Ordinance

The proposed project is located in the Neighborhood Commercial Zoning District (C1) and is permitted conditionally in this district upon approval of a conditional use permit. As conditioned, the proposed computer learning center/arcade is not expected to generate an increase in noise or odors, negatively affect parking, or create health and safety hazards. In addition, the intent of the "C1" district is to promote commercial development that complements the essential residential character of the area and provide the day-to-day shopping needs of the residential neighborhood. The project is consistent with this intent in that it provides nearby residents access to the internet and opportunity to learn computer skills and participate in computer games.

Neighborhood/Community Impact

The proposed tenant is expected to have a positive community impact by providing a complementary use to the existing retail uses currently located in the shopping center. Therefore, staff concludes that the computer learning center and arcade, as conditioned, will not negatively impact the surrounding neighborhood.

It should be noted that the city has not received any complaints from adjacent or nearby residential neighbors regarding the shopping center activities. However, the applicant is proposing to operate until 12:00 midnight, seven (7) nights a week. According to the applicant, the simulation and arcade

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components of Mission Control require the use of headsets. Therefore, staff is confident the noise impact on adjacent residential neighborhoods will not be significant.

Conformance with CEQA

The proposed project is categorically exempt from further environmental review pursuant to Class 1, Section 15301 ("Existing Facilities—"...permitting,...licensing...of existing...private structures...involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination") of the California Environmental Quality Act (CEQA) Guidelines.

RECOMMENDATION

Close the Public Hearing. Approve Use Permit No. P-UP2003-33, based on the Findings and Special Conditions of Approval listed below.

FINDINGS

1. The proposed computer learning center and arcade is consistent with the City of Milpitas Zoning Ordinance and General Plan in terms of land use for Neighborhood Commercial.
2. As conditioned, the proposed computer learning center and arcade is not expected to generate an increase in noise levels and is not anticipated to affect parking, or generate odors or health and safety hazards impacting the surrounding area. Therefore, the proposed project will not be detrimental or injurious to the public health, safety and general welfare.
3. The proposed project is categorically exempt from further environmental review pursuant to Class 1, Section 15301 ("Existing Facilities—"...permitting,...licensing...of existing...private structures...involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination") of the California Environmental Quality Act (CEQA) Guidelines.

SPECIAL CONDITIONS FROM PLANNING DIVISION

1. This Use Permit No. P-UP2003-33 approval is for a 1,500 square foot, 30-station computer learning center and arcade as shown on approved plans, dated October 8, 2003, except as may be otherwise modified by these conditions of approval. Modifications to the proposed use may require review and approval by the Planning Commission of an amendment to this Use Permit. (P)
2. The maximum approved number of computer stations is 30. Prior to issuance of a certificate of occupancy for this use, a sign measuring at least 8½ inches by 11 inches, with a lettering height of at least 3 inches, shall be placed in a conspicuous location near the front entrance stating "Maximum computer stations: 30, as per Use Permit Amendment No. P-UP2003-33 granted by the Planning Commission on October 8, 2003." (P)
3. This use shall be conducted in compliance with all appropriate local, state and federal laws and regulations. (P)
4. All roof-top equipment associated with this tenant space shall be shielded from view in a manner to the approval of the Planning Commission or its designee as specified in Section XI-10-42.10-2 of the Milpitas Municipal Code. Prior to the issuance of any permit for any roof-top equipment which projects above the height of any existing parapet wall or screen, detailed architectural plans for the screening of this equipment and/or line-of-sight view analysis demonstrating that the equipment will not be visible from surrounding view points shall be reviewed and approved as specified in Section XI-10-42.10-2 of the Milpitas Municipal Code, in order to assure the screening of said equipment is in keeping with and in the interest of good architectural design principles. (P)

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5. Prior to issuance of Certificate of Occupancy, the property owner shall submit a parking re-striping plan detailing the required parking stalls for Planning Division approval and complete re-striping of said parking lot. (P)
6. If at the time of application for permit there is a project job account balance due to the City for recovery of review fees, review of permits will not be initiated until the balance is paid in full. (P)
7. If at the time of application for a certificate of occupancy there is a project job account balance due to the City for recovery of review fees, a certificate of occupancy shall not be issued until the balance is paid in full. (P)
8. Prior to occupancy permit issuance, the applicant shall submit evidence to the City that the following minimum refuse and recycling services have been subscribed with BFI for both commercial and residential use:
 - a. An adequate level of service for trash collection.
 - b. An adequate level of service for recycling collection.
 - c. After the applicant has started its business, the solid waste service shall be evaluated by BFI commercial representative to determine the adequacy of the service level. If the services found to be inadequate, the applicant shall increase the service to the level determined by the evaluation. For general information, contact BFI at (408) 432-1234. (E)
9. The developer shall submit a Sewer Needs Questionnaire and/or Industrial Waste Questionnaire with the building permit application and pay the related fees prior to Building Permit issuance by the Building Division. Contact the Land Development Section at (408) 586-3329 to obtain the form(s). (E)

City of Milpitas Planning Division
455 E. Calaveras Blvd.
Milpitas CA 95035

To whom this may concern,

July 31, 2003

Welcome, to ***Mission [CTRL] Center***

Business theme is "*Don't just learn it, have fun doing it!*"

Our mission for this business to provide the ultimate computer learning and simulation software applications for today's and tomorrow's computing generation. From any age from 5 years old to 100 years young ... You will enjoy our facility, because you have control at your finger tips, just at a press of a button.

When you walk into one of our centers you will be greeted with a warm smile and a relaxing atmosphere where you will decide what software application to choose from such as the following....

IMPROVE on Yourself: (Honorary Certificate upon Completion)

"Increase your reading ability to read faster and comprehend better everyday."

-- eyeQ software & Hands on computer simulation exercises.

"Need to know how to use Microsoft XP and Office."

-- MS XP & Office software & Hands on computer simulation exercises.

"How to trouble shoot computer "hang-ups."

-- Upgrade & Maintenance class sessions

"Using the Internet for home & business."

-- Hands on training class sessions

"Protecting your data and backing up daily"

-- Backup & Security class sessions & Hands on computer simulation exercises.

...many more class session will be developed.

SIMULATION Series: (PG RATED -- Headsets required)

--[X-Box/ PS2/ PC console] -Baseball, Golf, NFL Football, ML Soccer, Tennis, Hockey, NASCAR Driving, Golf, Flight simulator and many more...

FANTASY ARCADE Series: (MA RATED -- Headsets required)

--[X-Box/ PS2/ PC console] -Counter Strike, Delta Force, Final Fantasy, Blizzard Games, Seekers and many more...

We hope to start this business proposal on this site located at 1319 Jacklin Road, Milpitas CA October 1st, 2003. This computer center is to facilitate registered students and membership users to utilize the software applications provided by our Mission CTRL Center business.

The main process is to provide educational software programs such as eyeQ, an interactive software program which helps students read faster and comprehend better and other scholastic programs offered during the day as well as X-box, PS2 an PC entertainment software requested from a networked menu login screen selected by the membership user attending one of the PC's at our center. The hours of operation are from M-F-Sat 8:00 AM to 12:00 midnight and Sunday from 10:00 AM to 12:00 midnight.

Our incentive is to provide better learning facilities and interactive software for everyone. The cost for attending our daily 1 to 2 hours training sessions (depending on course offered) is \$25 per adult person and \$15 for Children between 7 to 17 years old and Senior Citizens \$12. Very inexpensive for learning today's technology. Simulation & Arcade cost \$5 per hour (\$4 with membership). One or two persons will be employed to manage the center.

Reseller Business: (for Personal & Commercial Business – Seller's Permit)

- Veritas for PC's & Small Business – Backup Software
- McAfee - AntiVirus Software
- Microsoft – OS & Office Software
- Scholastic – Learning & Educational Software

Thank you for walking through our Mission CTRL Center! We hope that we satisfied your computing needs and appreciate your stay with us another time. Here is our complementary frequent card. For every hour you stay with us you can collect points. For every 12 points accumulated 1 hour is free. So, if you attend our center and collected 24 points, you are eligible for 2 hours free to use at our center (expires in one month). And if you attend one paid training sessions offered during the day you receive automatically 1 hour free to enjoy our Simulation and Fantasy Arcade series. "The more you learn the more you can play for free."

You can also register as a member on our website at www.mcc.com.

Regards,
Hermilo Isla, President
Mission CTRL Center
(408)891-1718 Cell
(408)935-8297 Office/Fax

MEMORANDUM

Department of Planning, Recreation & Neighborhood Services



To: Kim Duncan, Planning
From: Janice Nadal, Transportation Planning
cc: Joe Oliva, Transportation Planning
Subject: Mission Control Applicant Proposal- Parking Study
Date: October 1, 2003

As per Transportation Planning's request, Mission Control, 1319 Jacklin Road performed a parking study during proposed operation hours of 8:00am to 12:00am.

The applicant proposed to have 30 computer stations. The parking index used for the Internet café was that of restaurant, 1-space/3 seats, or in these terms, 1 parking space/3 computer stations, 10 spaces total. Prior retail space allotted 7 spaces, requiring 3 more spaces for the new applicant.

From the attached Parking Study, the results indicated the peak demand for parking occurred during the hours of 12:00pm-7:00pm with the maximum parking occupancy at 47%.

--- With the parking demand at less than 50% occupancy during Mission Control's proposed hours of operation, Transportation Planning concludes there is adequate parking to accommodate the applicant's requirement for 10 parking spaces.

If you have any questions, feel free to contact me at x3291 or Joe Oliva at x3290.

jn: attachment

Jacklin RD Lpitas CA	Monday 9/22	Tuesday 9/23	Wednesday 9/24	Thursday 9/25	Friday 9/26	Saturday 9/27	Sunday 9/28	Mon 9/29
8:00		12	14	5	6	5	4	5
9:00		13	14	12	13	9	10	13
10:00		27	22	12	14	11	12	26
11:00		40	36	37	33	29	18	36
12:00		49	47	48	46	33	24	38
1:00		43	40	36	35	30	28	41
2:00		44	35	33	33	29	21	43
3:00		42	36	42	44	37	34	39
4:00	38 TOTAL	38	40	38	36	35	29	37
5:00	36 TOTAL	41	38	36	36	34	30	41
6:00	25	39	32	36	32	33	26	29
7:00	20	28	29	27	24	26	28	22
8:00	14	18	17	18	19	15	10	13
9:00	15	16	10	13	14	12	10	14
10:00	3	4	3	3	3	3	4	3
11:00	3	3	3	2	3	2	2	3
12:00	3	3	3	2	3	2	2	3

= 12 PARKING slots
 = 5
 = 5
 = 7
 = 4
 = 6
 = 3
 = 20
 = 11
 = 11
 = 3
 = 87 slots for PARKING

MISSION CTRL CTR


 Xernib Juk
 28-0911-TR no DD.

9/29/03

JACKLIN ROAD

20 PARK VICTORIA

